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1200 19TH STREET, N.W.

SUITE 500

WASHINGTON, D.C. 20036

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May 19, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Room TWB-204
Washington, D.C. 20554

Re: Ex Parte Presentation in CC Docket No. 96-98

Dear Ms. Salas:

Yesterday Joseph Gillan, Rick Tidwell and I, on behalf of the Promoting Active Competition Everywhere (PACE) Coalition, met with Jake Jennings, Chris Libertelli and Jon Reel of the Common Carrier Bureau regarding the above-referenced proceeding. During the meeting, PACE reviewed the switching cross-over analysis contained in the Birch Telecom reply to oppositions to its petition for reconsideration, and asked the FCC to modify the rule specifying that incumbent local exchange carriers do not have to provide local switching as a mandatory UNE for customers with four lines or more in certain circumstances. A copy of the written materials distributed by PACE at the meeting are attached.

PACE submits that, consistent with the impairment standard in 47 U.S.C. § 251(d)(2)(B), the cutoff for availability of the local switching element should be DS1-based. PACE pointed out that access to the local switching UNE is necessary to serve analog lines in mass-market conditions and in that broad-based local competition will not develop if manual processing must be employed to migrate customers.

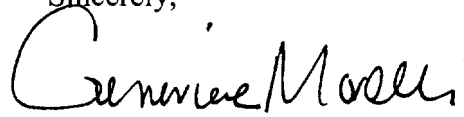
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M. Roman Salas
May 19, 2000
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KELLEY DRYE & WARREN LLP

In accordance with Section 1.1206 of the Commission's rules, an original and one copy of this letter and accompanying materials are being filed with your office.

Sincerely,

A handwritten signature in cursive script that reads "Genevieve Morelli". The signature is written in black ink and is positioned below the word "Sincerely,".

Genevieve Morelli

Attachment

cc: Jake Jennings
Chris Libertelli
Jon Reel

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The PACE Coalition

Promoting Active Competition Everywhere

May 18, 2000

**The Commission Should Increase the Line Restriction
To More Accurately Reflect When a High-Capacity Facility Can Be
Used with Self-Provisioned Local Switching**

CC Docket No. 96-98

- I. **Access to Local Switching is necessary to serve analog lines in mass-market conditions.**
- A. Manual migrations cannot effectively support broad-based local competition due to the cost, complexity and delay inherent in manual processing.
- B. Local Switching supports the electronic migration of analog lines, thereby supporting broad-based local competition.

**Comparing the Cost of Customer Migration
(Per Line)**

| State | Electronic (UNE-P) Migration Cost | Manual Loop/Port Migration Cost |
|-----------------------|--------------------------------------|------------------------------------|
| Georgia ¹ | \$2.01 | \$113.07 ² |
| Florida ³ | \$1.46 | \$178.00 |
| Michigan ⁴ | \$0.35 | \$35.89 |
| New York ⁵ | \$3.82 | \$67.18 |

¹ Order, Docket No. 10692-U, Georgia Public Service Commission, February 1, 2000.

² Includes a charge for coordinated cutover.

³ Order, No. PSC-98-0810-FOF-TP, Docket No. 97-1140-TP, Florida Public Service Commission, June 12, 1998.

⁴ Opinion and Order, Case No. U-11831, Michigan Public Service Commission, May 3, 2000.

⁵ Data provided by Bell Atlantic-New York during the New York Public Service Commission's review of Bell Atlantic-New York's Section 271 application.

- II. Because of provisioning barriers, CLEC-provided local switching is effectively limited to serving customers with “design services.”**
- A. Design services, such as high-capacity digital services, *require* manual provisioning, even when obtained from the ILEC. Consequently, CLECs do not face relative disadvantages in using manual processing to provide design services.
 - B. Because of these factors, ILEC local switching may not be necessary in very dense markets (i.e., markets with high concentrations of large customers) to serve customers with high-capacity (DS-1 and above) design service needs.
- III. The best indicator of whether a customer is sufficiently large to be served by a high-capacity facility is whether the customer has already chosen such an access method.**
- IV. Alternatively, the Commission can *estimate* when a customer has sufficient analog lines to be served more economically efficiently through a high-capacity facility.**
- A. The analysis contained in the pleading filed by Birch Telecom in this docket (“Birch Analysis”) in response to oppositions to its petition for reconsideration uses the actual costs incurred by Birch to establish its Kansas City collocation facility to estimate when it becomes economically feasible to use a DS-1 unbundled loop and self-supply switching to serve a customer with multiple analog lines.

B. Results of the Birch Analysis

| Lines | UNE-P Monthly | DS-1 | | |
|-------|------------------|----------|----------|----------|
| | | 12 Month | 24 Month | 36 Month |
| 10 | \$144.92 | \$283.45 | \$238.17 | \$227.18 |
| 11 | \$159.37 | \$283.45 | \$238.17 | \$227.18 |
| 12 | \$173.82 | \$283.45 | \$238.17 | \$227.18 |
| 13 | \$188.27 | \$283.45 | \$238.17 | \$227.18 |
| 14 | \$202.72 | \$283.45 | \$238.17 | \$227.18 |
| 15 | \$217.17 | \$283.45 | \$238.17 | \$227.18 |
| 16 | \$231.62 | \$283.45 | \$238.17 | \$227.18 |
| 17 | \$246.07 | \$283.45 | \$238.17 | \$227.18 |
| 18 | \$260.52 | \$283.45 | \$238.17 | \$227.18 |
| 19 | \$274.97 | \$283.45 | \$238.17 | \$227.18 |
| 20 | \$289.42 | \$283.45 | \$238.17 | \$227.18 |
| 21 | \$303.87 | \$283.45 | \$238.17 | \$227.18 |
| 22 | \$318.32 | \$283.45 | \$238.17 | \$227.18 |
| 23 | \$332.77 | \$283.45 | \$238.17 | \$227.18 |
| 24 | \$347.22 | \$283.45 | \$238.17 | \$227.18 |

Area where
DS-1 is
less costly
than loops.

C. Conclusions from the Birch Analysis

1. Due to the high non-recurring charges to establish a high-capacity arrangement, this alternative is only viable in a contract environment, which ensures a sufficient time period for cost recovery.
2. Depending upon the contract term, the crossover to a high-capacity facility is between 16 (three year term) and 20 (one year term) lines.

D. The Birch Analysis is deliberately conservative. Its principal assumptions:

1. Used actual EF&I (engineered, furnished, and installed) costs for a *voice-only* integrated access unit (IAU) installed at a customer premise as an interface between the customer's analog lines and a DS-1.
2. The fill-factor on collocated facilities was assumed to be 75%.

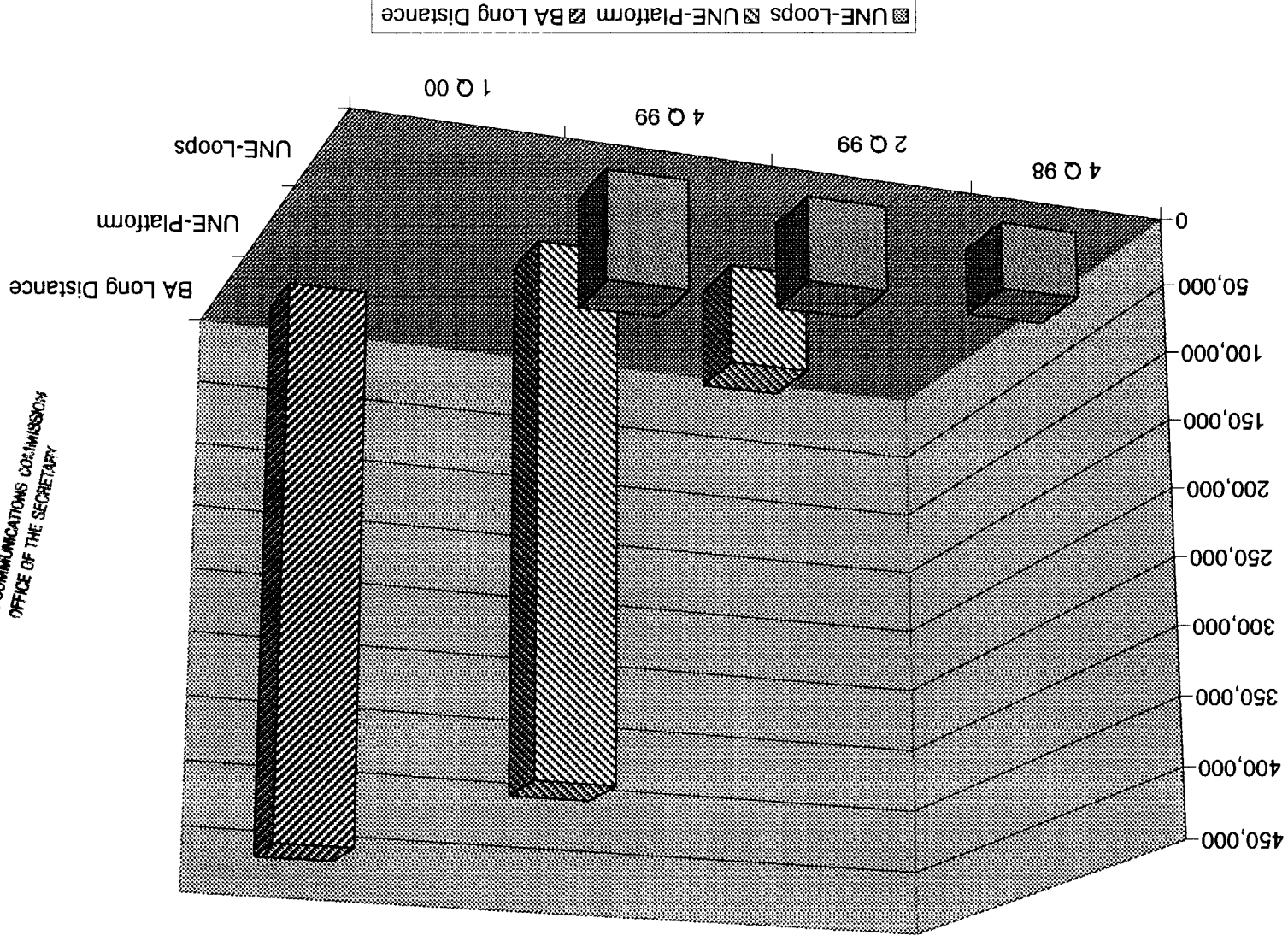
3. Collocation space preparation costs were prorated to remove space unrelated to IAU equipment.
 4. Collocation costs (space preparation and equipment) were amortized over 7 years.
 5. All fixed costs (i.e., NRCs and IAU costs net of salvage) were amortized over the contract period, assuming an internal cost of capital of 12.5%.
 6. IAU salvage value was assumed to be 66% of the initial cost at 12 months, 33% at 24 months, and 0 at 36 months.
 7. Salvage labor costs were assumed to be 50% of install labor costs.
 8. Costs to cross-connect a DS-1 to the Birch switch were assumed to be equal to SBC's cost to cross-connect DS-1s at the central office.
- E. The Analysis excluded Birch switch port and usage-related costs (backhaul, interoffice transport, call termination). The effect of not including these cost components is equivalent to assuming that Birch's switching, interoffice transport, and local termination costs are equal to SBC's. As a new entrant, however, Birch's facilities do not achieve the scale economies of SBC's and, as a result, Birch's costs are likely higher. Therefore, the analysis underestimates the economic crossover.

V. PACE Recommendations

- A. Because the annual contract most closely resembles the month-to-month environment that typifies analog services, the Commission should increase the availability of local switching to 20 lines.
- B. The Commission should clarify that the line restriction applies per CLEC/per customer location. That is, whether an arrangement qualifies for the local switching network element should be based on the number of lines the customer purchases from a particular CLEC at a particular location.
- C. Customers initially qualifying to be served through Local Switching should be grandfathered if they grow to exceed the maximum number of lines.

- D. Because the critical impairment justifying the availability of local switching is provisioning-related, local switching should remain a network element until ILECs are able to provision analog loops electronically.

Competitive Activity in New York



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